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*Admitted Pro Hac Vice*

Attorneys for Plaintiffs DENNIS MONTGOMERY and MONTGOMERY FAMILY TRUST, a California Trust.

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

DENNIS MONTGOMERY, an individual; and MONTGOMERY FAMILY TRUST, a California Trust,	)	CASE NO.: 3:06-cv-00056-BES-VPC
Plaintiffs,	)	
vs.	)	PLAINTIFFS' OPPOSITION TO EX PARTE MOTION
eTREPPID TECHNOLOGIES, INC., a California corporation, aka eTreppid Technologies, LLC, a Nevada LLC;	)	BY ETREPPID TECHNOLOGIES AND WARREN
WARREN TREPP, an individual;	)	TREPP FOR LEAVE TO AMEND MOTION TO
DEPARTMENT OF DEFENSE of the	)	DISMISS FIRST AMENDED COMPLAINT OF DENNIS
UNITED STATES OF AMERICA; and	)	MONTGOMERY AND THE MONTGOMERY FAMILY
DOES 1 through 10,	)	TRUST
Defendants.	)	
	)	

1 Although Plaintiffs do not in theory oppose the Defendants' motion for leave to "amend" their  
2 earlier-filed Motion to Dismiss, Plaintiffs hereby oppose the defendants' motion only on the narrow  
3 procedural ground that an "amended" motion is not the proper or appropriate vehicle by which to  
4 accomplish what the Defendants seek to do, which is to respond to the First Amended Complaint, not the  
5 Complaint. Instead, the more appropriate method would be to simply withdraw the originally-filed motion  
6 to dismiss – to which the Plaintiffs stipulate – and file whatever Motion to Dismiss the First Amended  
7 Complaint that the Defendants choose to file.

8 In that way, there is no potential ambiguity in the record regarding what complaint is being  
9 responded to, what arguments are being raised, and on what grounds dismissal is being sought. Under the  
10 Defendants' current plan, their recast motion is simply some type of "surreply" to the Plaintiffs' opposition.

11 WHEREFORE, Plaintiffs respectfully request that eTreppids' Motion for Leave to Amend Motion  
12 to Dismiss First Amended Complaint of Dennis Montgomery and the Montgomery Family Trust be denied.

13  
14 Respectfully submitted this 11<sup>th</sup> day of April, 2006.

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17 /S/EAP  
18 ERIC A. PULVER, ESQ.  
19 ATTORNEY FOR DEFENDANT  
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**CERTIFICATE OF SERVICE**

I, Lezlie M. Lucas, declare: I am an employee in the City of Reno, County of Washoe, State of Nevada, employed by the Law Office of Logar & Pulver, PC, located at 225 S. Arlington Avenue, Suite A, Reno, NV 89501. I am over the age of 18 years and not a party to this action.

I am readily familiar with the Law Office of Logar & Pulver's practice for the collection of mail, delivery of its hand-deliveries, their process of facsimile's and the practice of mailing.

On 11<sup>TH</sup> day of April, 2006, I caused the foregoing document to be delivered to the following persons and/or entities:

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